

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERYC YOUNG,

Plaintiff,

v.

Case No. 04-10309

Honorable David M. Lawson

EDWARD HIGHTOWER, MICHIGAN
DEPARTMENT OF CORRECTIONS, and
SCOTT G. REYNOLDS,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING MOTIONS TO DISMISS FILED BY DEFENDANTS HIGHTOWER AND
MICHIGAN DEPARTMENT OF CORRECTIONS, AND REFERRING CASE BACK TO
MAGISTRATE JUDGE**

Presently before the Court is the report issued on November 1, 2006 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b), recommending that this Court grant motions to dismiss filed by defendants Hightower and Michigan Department of Corrections. The magistrate judge concluded that defendant Hightower is entitled to qualified immunity on the plaintiff's civil rights claim and that the Court should decline to exercise supplemental jurisdiction over the state law claims against this defendant. The magistrate judge also concluded that defendant MDOC is immune from suit pursuant to the Eleventh Amendment. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the

motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 45] is **ADOPTED**.

It is further **ORDERED** that the motions to dismiss file by defendants Hightower and Michigan Department of Corrections [dkt ## 29, 30] are **GRANTED**, and defendants Hightower and Michigan Department of Corrections are **DISMISSED WITH PREJUDICE**.

It is further **ORDERED** that the case is referred back to the magistrate judge in accordance with the order for general case management dated November 24, 2004.

s/David M. Lawson

DAVID M. LAWSON
United States District Judge

Dated: November 22, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 22, 2006.

s/Felicia M. Moses

FELICIA MOSES